



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 2228 CUTTACK, THURSDAY, NOVEMBER 15, 2007/KARTIKA 24, 1929

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 26th October 2007

No. 11784—II/1 (B)-91/2002-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 29th June 2007 in I. D. Case No. 3/2003 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the management of M/s Text Book Production and Marketing, Bhubaneswar and its workman Shri P. Arraya Reddy was referred for adjudication is hereby published as in the Schedule below :

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 3 OF 2003

Dated the 29th June 2007

Present:

Shri S. K. Mohapatra, O.S.J.S. (Jr. Br.),
Presiding Officer,
Labour Court, Bhubaneswar.

Between:

The Management of M/s Text Book
Production and Marketing, Bhubaneswar.

— First Party—Management

And

Their Workman
Shri P. Arraya Reddy.

.. Second Party—Workman

Appearances:

None

— For First Party—Management

Shri B. K. Sahoo, Advocate

.. For Second Party —Workman

AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the management of M/s Text Book Production and Marketing, Bhubaneswar and their workman Shri P. Arraya Reddy under Notification No. 10909-L.E., dated the 16th August 2000 vide memo No. 15210 (5)-L.E., dated the 23rd December 2002 for adjudication by this Court.

2. The terms of reference by the State Government is as follows:

“Whether the action of the management of the Directorate of Text Book Production and Marketing, Bhubaneswar leading to termination of services of Shri P. Arraya Reddy by way of compulsory retirement as punitive measures with effect from the 7th March 1992 is legal and/or justified ? If not, what relief Shri Reddy is entitled to ?”

3. Shorn of all unnecessary details the case of the workman as reflected in his statement of claim is as follows:

The workman joined service under the management of Directorate of Text Book Production and Marketing, Bhubaneswar (hereinafter referred to as the management) as a Helper on the 8th February 1979. At the time of joining in the service, he disclosed the name of his wife as P. Arnapurna. On the 7th March 1992 the service of the workman was terminated by way of compulsory retirement. In the year 1986 one woman namely, Smt. P. Sarma filed a petition before the management claiming herself to be the legally married wife of the workman. On the said complaint of Smt. P. Sarma the workman was charge-sheeted on the 9th October 1990 for furnishing wrong information at the time of entry into the Government service, involving Bigamous marriage being a Government servant and for violation of Government Servants Conduct Rules. The workman denied all the charges. Shri J. K. Rath was appointed as Enquiry Officer. During enquiry the workman prayed for assistance of a co-worker vide his letter, dated the 13th April 1991 on the ground that he being a Telgu speaking man did not know Oriya but the Enquiry Officer rejected the prayer of the workman. The workman did not understand the statements of the witnesses recorded in Oriya and could not cross-examine any of witnesses examined by the management and therefore, the principles of natural justice was violated. Copy of the day to day proceeding of the enquiry were not supplied to the workman. The management on the report of the Enquiry Officer terminated the services of the workman on the 7th March 1992 by way of compulsory retirement without issuing any second show-cause notice to the workman before imposing punishment. On all these averments the workman has challenged the order, dated the 7th March 1992 of the management who compulsorily retired him from his service.

4. The management has been set *ex parte* vide order, dated the 16th July 2005.

5. In his evidence the workman has stated that at the time of joining his service under the management he had given a declaration about his marital status by disclosing the name of his wife as P. Arnapurna and the said name of his wife was entered in the Service Book and also in his Group Insurance Book. According to the workman, W. W. 1, one Smt. P. Sarma falsely alleged to be the married wife of the workman and therefore, the management charge-sheeted him for furnishing wrong information at the time of entering into the Government service, being involved in Bigamous marriage as a Government servant and violation of the Government Servants Conduct Rules. According to W. W. 1 he denied the charges and the management appointed Shri J. K. Rath as Enquiry Officer. Further evidence of W. W. 1 is that as because his mother tongue is Telgu and he did not understand Oriya language, he requested the Enquiry Officer for taking assistance of a co-worker during the enquiry proceeding but the same was not allowed. According to W. W. 1 as because the Enquiry Officer examined witnesses and recorded their statements in Oriya, he was unable to cross-examine the witnesses and therefore the enquiry had been conducted in violation of the principles of natural justice and in a very unfair manner. In his evidence the workman has further stated that after the enquiry, the Enquiry Officer gave a finding that the workman did not have any marital relationship with Smt. P. Sarma at the time of joining his service but strangely enough the Enquiry Officer in the concluding portion of his enquiry report opined that the charges have been established. Further evidence of the workman is that copy of the enquiry report had not been supplied to him. During his evidence the workman has proved Exts. 1 to 10 out of which Ext. 1 is the xerox copy of the letter of appointment. Ext. 2 is the xerox copy of Group Insurance Scheme Pass Book, Ext. 3 is the xerox copy of his application to the management praying for supply of copy of statement of witnesses recorded during enquiry, Ext. 4 is the xerox of the letter, dated the 28th March 1991 of the Enquiry Officer to him, Ext. 5 is the xerox copy of the application of the workman to the management

praying for permission to cross-examine the witnesses. Ext. 6 is the xerox copy of the reply of the workman to the letter, dated the 28th March 1991 of the Enquiry Officer, Ext. 7 is the xerox copy of the application of the workman to the management seeking permission to be assisted by a co-worker during enquiry Exts. 8 and 10 are the xerox copies of the orders relating to compulsory retirement of the workman and Ext. 9 is the xerox copy of the report of the Enquiry Officer.

6. On an analysis of the evidence it is seen from Ext. 10 that the management compulsorily retired the workman from his service with effect from the 7th March 1992 and the said order was communicated under Ext. 10 along with a copy of the enquiry report together with findings of the disciplinary authority. Thus the evidence of the workman that a copy of the enquiry report had not been supplied to him is totally false. Further note the workman himself has proved the xerox copy of the enquiry report as Ext. 9. There is nothing in the evidence of the workman W.W. 1 that he got the copy of the enquiry report in any other way except what has been mentioned in Ext. 10. The Enquiry Officer in his letter Ext. 4 to the workman has clearly mentioned that the workman himself had intended not to be present during the evidence of Shrimati P. Sarma and had informed the Enquiry Officer to be absent during the deposition of Shrimati P. Sarma who was examined on the 4th March 1991. This fact has also been discussed in detail in the enquiry report Ext. 9 and therefore, there is no force in the evidence of the workman that he was not given a chance to cross-examine the witnesses. Under Ext. 4 a copy of the statement, dated the 4th March 1991 of Shri P. Sarma along with xerox copy of the judgement of the learned Sub-Judge, Bhubaneswar in Misc. case No. 219/89 and the xerox copy of the order of the Hon'ble High Court of Orissa in Civil Revision No. 195 of 1990 were supplied to the workman. In his reply Ext. 6 the workman has not mentioned anything about not being given any chance to cross-examine any witness. On the other hand, he has mentioned that Shrimati P. Sarma had filed a case before the Sub-Judge, Bhubaneswar bearing No. OS-589/89 and the same was *subjudice* and that pending final disposal of the said matrimonial suit no conclusive view could be taken on both the complainants. In Ext. 6 the workman has not mentioned about his lack of knowledge in Oriya or about his desire to be assisted by any co-worker during the enquiry. On the other hand, such request have been made by the workman to the management under his petition, dated the 12th April 1991 vide Ext. 5. Similarly in his petition, dated the 29th January 1991 the workman has made a prayer to the management regarding supply of copies of statements of witnesses recorded during the enquiry. Under Ext. 7 the workman allegedly made a prayer to the Director of the management organisation to be assisted by a co-worker during the enquiry. I failed to understand why no such prayers were made before as noted in Exts. 3, 5 and 7 were made before the Enquiry Officer himself but on the other hand, such prayers were allegedly submitted to the Director of the management organisation. When the Enquiry Officer was not apprised of such difficulties as noted in Exts. 3, 5 and 7 of the workman, it can never be said that the enquiry of the Enquiry Officer was in any way unfair or violative of principles of natural justice. Ext. 2 has no evidentiary value with regard to the present case and it cannot be treated as true state of affairs because Ext. 2 was prepared at the instance of the workman at the time of his joining in the service and contained only the information which were supplied by him but subsequently after enquiry such information were found to be untrue by the Enquiry Officer vide his report Ext. 9. Considering all these materials on record it is held that there is no force in the evidence of the workman that the enquiry into the charges against him was improper or unfair in any way.

7. Therefore the reference is answered as follows:

- (1) The action of the management of the Directorate of Text Book Production and Marketing, Bhubaneswar leading to termination of services of Shri P. Araya Reddy by way of compulsory retirement with effect from the 7th March 1992 is legal and justified.